

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL 650

By: Shaw and Pittman of the  
Senate

and

Loring of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 18, as last amended by Section 1, Chapter 348, O.S.L. 2016 (22 O.S. Supp. 2017, Section 18), which relates to expungement of criminal records; modifying qualifications for certain categories; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as last amended by Section 1, Chapter 348, O.S.L. 2016 (22 O.S. Supp. 2017, Section 18), is amended to read as follows:

Section 18. A. Persons authorized to file a motion for expungement, as provided herein, must be within one of the following categories:

1. The person has been acquitted;
2. The conviction was reversed with instructions to dismiss by an appellate court of competent jurisdiction, or an appellate court

1 of competent jurisdiction reversed the conviction and the  
2 prosecuting agency subsequently dismissed the charge;

3 3. The factual innocence of the person was established by the  
4 use of deoxyribonucleic acid (DNA) evidence subsequent to  
5 conviction, including a person who has been released from prison at  
6 the time innocence was established;

7 4. The person has received a full pardon on the basis of a  
8 written finding by the Governor of actual innocence for the crime  
9 for which the claimant was sentenced;

10 5. The person was arrested and no charges of any type,  
11 including charges for an offense different than that for which the  
12 person was originally arrested, are filed and the statute of  
13 limitations has expired or the prosecuting agency has declined to  
14 file charges;

15 6. The person was under eighteen (18) years of age at the time  
16 the offense was committed and the person has received a full pardon  
17 for the offense;

18 7. The person was charged with one or more misdemeanor or  
19 felony crimes, all charges have been dismissed, the person has never  
20 been convicted of a felony, no misdemeanor or felony charges are  
21 pending against the person, and the statute of limitations for  
22 refiling the charge or charges has expired or the prosecuting agency  
23 confirms that the charge or charges will not be refiled; provided,  
24 however, this category shall not apply to charges that have been

1 dismissed following the completion of a deferred judgment or delayed  
2 sentence;

3 8. The person was charged with a misdemeanor, the charge was  
4 dismissed following the successful completion of a deferred judgment  
5 or delayed sentence, the person has never been convicted of a  
6 felony, no misdemeanor or felony charges are pending against the  
7 person, and at least one (1) year has passed since the charge was  
8 dismissed;

9 9. The person was charged with a nonviolent felony offense, not  
10 listed in Section 571 of Title 57 of the Oklahoma Statutes, the  
11 charge was dismissed following the successful completion of a  
12 deferred judgment or delayed sentence, the person has never been  
13 convicted of a felony, no misdemeanor or felony charges are pending  
14 against the person, and at least five (5) years have passed since  
15 the charge was dismissed;

16 10. The person was convicted of a misdemeanor offense, the  
17 person was sentenced to a fine of less than Five Hundred One Dollars  
18 (\$501.00) without a term of imprisonment or a suspended sentence,  
19 the fine has been paid or satisfied by time served in lieu of the  
20 fine, the person has not been convicted of a felony, and no felony  
21 or misdemeanor charges are pending against the person;

22 11. The person was convicted of a misdemeanor offense, the  
23 person was sentenced to a term of imprisonment, a suspended sentence  
24 or a fine in an amount greater than Five Hundred Dollars (\$500.00),

1 the person has not been convicted of a felony, no felony or  
2 misdemeanor charges are pending against the person, and at least  
3 five (5) years have passed since the end of the last misdemeanor  
4 sentence;

5 12. The person was convicted of a nonviolent felony offense,  
6 not listed in Section 571 of Title 57 of the Oklahoma Statutes, ~~the~~  
7 ~~person has received a full pardon for the offense,~~ the person has  
8 not been convicted of any other felony, ~~the person has not been~~  
9 ~~convicted of a~~ or separate misdemeanor in the last ~~fifteen (15)~~  
10 seven (7) years, no felony or misdemeanor charges are pending  
11 against the person, and at least ~~ten (10)~~ five (5) years have passed  
12 since the completion of the sentence for the felony conviction;

13 13. The person was convicted of not more than two nonviolent  
14 felony offenses, not listed in Section 571 of Title 57 of the  
15 Oklahoma Statutes, the person has received a full pardon for both of  
16 the nonviolent felony offenses, no felony or misdemeanor charges are  
17 pending against the person, and at least twenty (20) years have  
18 passed since the last misdemeanor or felony conviction; or

19 14. The person has been charged or arrested or is the subject  
20 of an arrest warrant for a crime that was committed by another  
21 person who has appropriated or used the person's name or other  
22 identification without the person's consent or authorization.

23 B. For purposes of ~~this act~~ Section 18 et seq. of this title,  
24 "expungement" shall mean the sealing of criminal records, as well as

1 any public civil record, involving actions brought by and against  
2 the State of Oklahoma arising from the same arrest, transaction or  
3 occurrence.

4 C. For purposes of seeking an expungement under the provisions  
5 of paragraph 10, 11, 12 or 13 of subsection A of this section,  
6 offenses arising out of the same transaction or occurrence shall be  
7 treated as one conviction and offense.

8 D. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12, 13  
9 and 14 of subsection A of this section shall be sealed to the public  
10 but not to law enforcement agencies for law enforcement purposes.  
11 Records expunged pursuant to paragraphs 8, 9, 10, 11, 12 and 13 of  
12 subsection A of this section shall be admissible in any subsequent  
13 criminal prosecution to prove the existence of a prior conviction or  
14 prior deferred judgment without the necessity of a court order  
15 requesting the unsealing of the records. Records expunged pursuant  
16 to paragraph 4, 6, 12 or 13 of subsection A of this section may also  
17 include the sealing of Pardon and Parole Board records related to an  
18 application for a pardon. Such records shall be sealed to the  
19 public but not to the Pardon and Parole Board.

20 SECTION 2. This act shall become effective November 1, 2018.

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